

MAR 13 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

IRMA YOLANDA FIGUEROA-  
GARCIA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-70702

Agency No. A41-692-533

MEMORANDUM \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted February 26, 2008\*\*

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Irma Yolanda Figueroa-Garcia, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

reopen exclusion proceedings based on ineffective assistance of current counsel.

We dismiss the petition for review.

We lack jurisdiction to consider Figueroa-Garcia's challenge to the BIA's decision not to invoke its *sua sponte* reopening authority. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002). We also lack jurisdiction to consider Figueroa-Garcia's equitable tolling claim because she failed to exhaust the claim before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (court lacks jurisdiction to review contentions not raised before the agency).

**PETITION FOR REVIEW DISMISSED.**